

U.S. Application No. 09/608,184 Examiner Christopher J. Brown Art Unit 2134
37 CFR 1.116 Amendment & Request for Reconsideration of Final Office Action Mailed on January 27, 2005

RESPONSE

In response to the Office Action dated January 27, 2005, Assignee respectfully requests reconsideration based on the following remarks. Assignee respectfully submits that all pending claims are in condition for allowance.

The United States Patent and Trademark Office (the "Office") objected to claim 41 under 35 U.S.C. § 132, rejected claims 1-27, 29-31, 33-35, and 37-54 under 35 U.S.C. § 103(a) as being unpatentable over Blonder (U.S. Patent No. 5,708,422) in view of Bartoli (U.S. Patent No. 6,047,268), rejected claims 28, 37, and 38 under 35 U.S.C. § 103(a) as being unpatentable over Blonder in view of Bartoli in view of Goldsmith (U.S. Patent No. 6,064,990), and rejected claims 32 and 36 under 35 U.S.C. § 103(a) as being unpatentable over Blonder in view of Bartoli and in view of Bickham (U.S. Patent No. 5,530,438). The Assignee shows, however, that the pending claims point out and distinctly claim the invention and that the pending claims are not anticipated, nor obviated, by the cited art. Thus, the Assignee respectfully submits that the pending claims (claims 1, 10, 17, 41, and 55) are ready for allowance and requests reconsideration pursuant to 37 CFR §1.116. *See also, MPEP §§ 714.12 and 714.13.*

March 1, 2005 Interview:

On March 1, 2005, an in person interview (hereinafter referred to as "the Interview") was held with Christopher Brown (Examiner), Gregory Morse (Examiner Brown's Supervisor), Samuel Zelner (Inventor), and Bambi Walters (Attorney for Assignee). During the Interview, the participants discussed the objection and rejections of the January 27, 2005 Office Action including claim 41 and agreed that the steps of "receiving a request to connect the payer with the help communications address for assistance with the financial transaction" and "initiating a communications connection among the payer and the help communications address" are supported in the application. In addition, during the Interview, the participants discussed proposed claims amendments and art cited in the January 27, 2005 Office Action; however, no agreement was reached regarding allowable subject matter.

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§132 Rejection:

In the reason for objecting to the claim 41, Examiner Brown asserted that "sending the notification message to the help communications address" introduced new matter. Office Action, p. 2. Assignee has rewritten claim 41 in independent claim format to include the limitations of base claim 36 and has further amended the claim to remove the step of "sending the notification message to the help communications address." Amended claim 41 is presented below:

[c41] A method for monitoring a commercial transaction for a payer, comprising the steps of:

- initiating the commercial transaction;
- sending an authorization request to a processing center, wherein the authorization request comprises an amount of the commercial transaction;
- receiving the authorization request, including an identification of the payer, in a computer in a processing center;
- determining whether the payer is a subscriber of the commercial transaction monitoring service;
- continuing processing of the commercial transaction if the payer is not a subscriber to the commercial transaction monitoring service; and
- if the payer is a subscriber to the commercial transaction monitoring service:
 - obtaining a notification address corresponding to the identification of the payer;
 - creating a notification message using the notification address, wherein the notification message comprises a help communications address for assistance with the commercial transaction and wherein the notification message further comprises a merchant name, a merchant address, the amount of the commercial transaction, a date of the commercial transaction, a time of the commercial transaction, a name of the payer, and a reference number of the commercial transaction;
 - sending the notification message to the notification address;
 - receiving a request to connect the payer with the help communications address for assistance with the financial transaction; and
 - initiating a communications connection among the payer and the help communications address.

U.S. Patent Application No. 09/608,184, claim 41.

During the Interview, the participants agreed that the steps of "receiving a request to connect the payer with the help communications address for assistance with the financial transaction" and "initiating a communications connection among the payer and the help communications address" are supported in the application. Consequently, the Assignee

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respectfully requests that Examiner Brown remove the objection of claim 41. There were no other objections or rejections of claim 41, and Assignee respectfully submits that claim 41 is in condition for allowance pursuant to 37 CFR §1.116. *See also*, MPEP §§ 714.12 and 714.13.

Furthermore in regards to claim 41, Assignee respectfully asserts that if Examiner Brown seeks to maintain this objection, then maintaining this objection is a violation of due process. If the Office wishes to factually support this objection, then another office action is required. This other office action must follow the requirements of MPEP § 706.03(o) and be reexamined. And, if a subsequent office action rejects claim 41, then the Office cannot issue a final office action — that is, the Assignee must be given an opportunity to rebut any new rejection of claim 41. ANY OTHER ACTION IS A VIOLATION OF DUE PROCESS.

§103 Rejections:

The Office rejected claims 1-27, 29-31, 33-35, and 37-54 under 35 U.S.C. § 103(a) as being unpatentable over Blonder (U.S. Patent No. 5,708,422) in view of Bartoli (U.S. Patent No. 6,047,268), rejected claims 28, 37, and 38 under 35 U.S.C. § 103(a) as being unpatentable over Blonder in view of Bartoli in view of Goldsmith (U.S. Patent No. 6,064,990), and rejected claims 32 and 36 under 35 U.S.C. § 103(a) as being unpatentable over Blonder in view of Bartoli and in view of Bickham (U.S. Patent No. 5,530,438). If the Office wishes to establish a *prima facia* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P."). Claims 2-9, 11-16, 18-40, and 42-44 are canceled in this 116 Amendment, and, therefore, the rejection of these claims is moot. As for the remaining claims — claims 1, 10, 17, and 45, the Assignee shows, however, that the combination of *Blonder* and/or *Bartoli* fails teach or suggest the claim limitations. The Assignee, then, respectfully requests allowance of currently pending claims 1, 10, 17, and 45.

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The combination of *Blonder* and *Bartoli* fails to teach or suggest the claimed subject matter of claims 1, 10, 17, and 45 – that is, the claimed subject matter of (1) communicating a notification message that has a help communications address for assistance with the commercial transaction, (2) receiving a request to connect the payer with the help communications address for assistance with the financial transaction, and (3) initiating a communications connection among the payer and the help communications address is not taught or suggested by the cited art.

Claims 1, 10, and 17:

The United States Patent and Trademark Office (hereinafter, the "Office") rejected claims rejected claims 1, 10, and 17 under 35 U.S.C. § 103(a) as being unpatentable over *Blonder* (U.S. Patent No. 5,708,422) in view of *Bartoli* (U.S. Patent No. 6,047,268). Assignee has amended claims 1, 10, 17 to place them in condition for allowance and includes similar subject matter of claim 41 as well as subject matter of several dependent claims. Amended claims 1, 10, and 17 are presented below.

[c01] A method for monitoring a commercial transaction for which there is a payer, comprising the steps of:

receiving a request for the commercial transaction, the request comprising a request to access an account, a request for authorization to debit an account, a request for authorization to post charges to an account, and an instruction to post credit to an account, the account associated with the payer and a communications address of the payer;

creating a notification message of the request for the commercial transaction, the notification message having a help communications address for assistance with the commercial transaction and the notification message further comprising a merchant name, a merchant address, an amount of the commercial transaction, a date of the commercial transaction, a time of the commercial transaction, a name of the payer, and a reference number of the commercial transaction;

communicating the notification message to the associated communications address of the payer;

receiving a request to connect the payer with the help communications address for assistance with the financial transaction; and
initiating a communications connection among the payer and the help communications address.

[c10] A system for monitoring a commercial transaction for a payer of the commercial transaction, comprising:

a first process to receive a request for the commercial transaction, the request comprising a request to access an account, a request for

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authorization to debit an account, a request for authorization to post charges to an account, and an instruction to post credit to an account, the account associated with the payer and a communications address of the payer; and

a second process to communicate a notification message to the associated communications address of the payer, the notification message having a help communications address for assistance with the commercial transaction and the notification message further comprising a merchant name, a merchant address, an amount of the commercial transaction, a date of the commercial transaction, a time of the commercial transaction, a name of the payer, and a reference number of the commercial transaction;

a third process to receive a request to connect the communications address of the payer with the help communications address for assistance with the financial transaction; and

a fourth process to initiate a communications connection among the communications address of the payer and the help communications address.

[c17] A system for reducing the likelihood of fraud in a commercial transaction comprising:

at least one processing device communicating with a communications network, the at least one processing device receiving a request for the commercial transaction, the request comprising at least one of request to access the account, a request for authorization to debit an account, a request for authorization to post charges to an account, and an instruction to post credit to an account, the account associated with the payer and a communications address of the payer, the at least one processing device further creating a notification message of the request for the commercial transaction, the notification message having a help communications address for assistance with the commercial transaction and the notification message further comprising a merchant name, a merchant address, an amount of the commercial transaction, a date of the commercial transaction, a time of the commercial transaction, a name of the payer, and a reference number of the commercial transaction, the at least one processing device communicating the notification message to the associated communications address of the payer and *receiving a request to connect the associate communications address with the help communications address for assistance with the financial transaction, and the at least one processing device initiating a communications connection among the communications address of the payer and the help communications address.*

U. S. Patent Application No. 09/608,184, independent claims 1, 10, and 17 (emphasis added by Assignee).

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Regarding independent claims 1, 10, and 17, Examiner Brown asserts:

... Blonder does not teach sending a contact help number with the page or message. Blonder does not teach that the message contains an authorization or denial by a processing center.

Bartoli teaches sending a message to the user regarding a financial transaction including a customer assistance phone number, (Col 7 lines 28-34). It would have been obvious to one of ordinary skill in the art to combine the customer assistance phone number with the notification message of Blonder because a customer receiving the message by page would need to know where to call.

Bartoli teaches that the message indicates that the transaction cannot be authorized (Col 7 line 30). It would have been obvious to one of ordinary skill in the art to combine the authorization status with the message of Blonder to more clearly inform the customer as to why they are receiving the message.

Office Action, pages 3-4.

As Assignee presented in their August 29, 2004 Amendment and Response, *Blonder* does not disclose the claimed subject matter of claims 1, 10, and 17. *Blonder* describes (1) an automated method for authorizing a transaction in which the customer is informed of a pending authorization and the transaction is then authorized in response to a customer confirmation and (2) a method and system allowing a principal to be automatically alerted to and/or to promptly authorize an agent-initiated transaction which may be deemed atypical based on a pre-stored profile. *Blonder*, U.S. Patent No. 5,708,422, col. 2, lines 53-60. *Blonder*, however, fails to even remotely describe or suggest communicating a notification message that includes a help communications address. Rather, *Blonder* discloses the alert of FIG. 4 comprising the card holder's name, a display field, and a field that is populated by an entry in the table of FIG. 5. See *Blonder*, col. 7, lines 32-65. Thus the alert of *Blonder* is not associated with a help communications address.

Further, *Blonder* does not describe or suggest communicating the notification message when the commercial transaction involves a *credit to* an account, *access of* the account, or *non-debit related activity*. Rather *Blonder* discloses receiving an alert of a request for a debit and/or requesting approval/disapproval from the customer as part of the card validation process requesting a debit to a credit card account.

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Still further, *Blonder* does not describe or suggest a notification message that includes a response by a processing center that alerts the payer whether a request for authorization has been approved or denied by the credit card processing center. Rather, *Blonder* discloses that the notification message is triggered by an "exception condition caused above threshold parameters pre-imposed by card owner" *Blonder*, col. 3, lines 21-27. Consequently, the alert disclosed in *Blonder* does not present a notification to the customer when an exception condition is not triggered. The subject matter of Assignee's application provides the notification message regardless of whether an exception condition or threshold limit is satisfied. Furthermore, the claimed subject matter provides a notification message for other events, such as when there is a credit (e.g., returned merchandise) to the credit card account or when there is an access of the account (e.g., request for an amount of a recent purchase from a merchant).

Bartoli does not cure the defects of *Blonder* – that is, *Bartoli* does not teach or suggest (1) communicating a notification message that has a help communications address for assistance with the commercial transaction, (2) receiving a request to connect the payer with the help communications address for assistance with the financial transaction, and (3) initiating a communications connection among the payer and the help communications address is not taught or suggested by the cited art. Rather, *Bartoli* describes a method and apparatus for authenticating transactions accomplished over a data network that utilizes a "cookie" containing static and dynamic information. More specifically, *Bedingfield* discloses that:

Assuming that the user has been authenticated, the transaction needs to be authorized by the billing system. When the user "clicks-to-buy", which is the stage in the merchant-user electronic shopping web interface when the user has confirmed a willingness to complete the transaction with the stated terms, the transaction must be authorized. The order information, digitally signed by the merchant is sent through the user's client terminal's browser to the billing system 104. The order amount, combined with the cookie file containing the user's account ID number and transaction number, provide sufficient information to query the user's profile stored in database 106 to verify if the transaction should be authorized. Authorization for the transaction will be granted if (1) the user is registered as active in the billing system; (2) the merchant is registered with the billing system; (3) the user is not blocked from making purchases based on payment history; (4) the purchase amount does not exceed a per-transaction limit specified by the user upon registration; (5) the purchase amount does not exceed the billing system's specified cumulative credit limit; and (6) the purchase does not violate any customer-

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specified restrictions (e.g., block transactions during certain times) or preferences (e.g., block transactions for certain types of merchandise). *If authorization is denied, a message is displayed on the user's browser indicating that the purchase cannot be authorized and inviting the user to contact a customer assistance representative at a specified phone number.* Additional criteria can also be used to determine whether or not to authorize a specific transaction.

U.S. Patent No. 6,047,268, col. 7, lines 6-34 (emphasis added by Assignee). Consequently, *Bartoli* does not teach or suggest communicating the help communications address when there is a request to access an account, a request for authorization to debit an account, a request for authorization to post charges to an account, or an instruction to post credit to an account. That is, the message of *Bartoli* is when the "purchase cannot be authorized." Still further, *Bartoli* does not describe or suggest a notification message that includes a response by a processing center that alerts the payer whether a request for authorization has been approved or denied by the credit card processing center. Again, *Bartoli* discloses that the notification message is triggered by "criteria," filters, or exceptions being met to trigger the notice that the authorization is denied. Id. Consequently, the alert disclosed in *Bartoli* does not present a notification to the customer when a criterion is not triggered. The subject matter of Assignee's application provides the notification message regardless of whether an exception condition or threshold limit is satisfied. Furthermore, *Bartoli* does not teach or suggest (1) receiving a request to connect the payer with the help communications address for assistance with the financial transaction and (2) initiating a communications connection among the payer and the help communications address is not taught or suggested by the cited art.

In regards to claims 1, 10, and 17, Assignee respectfully asserts that Examiner Brown has failed to satisfy MPEP § 2143. The Examiner fails to suggest, identify, or explain how each and every element of these claims is disclosed in *Blonder* and/or *Bartoli*. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). See also DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143. If the Examiner seeks to maintain this rejection without explaining how each and every element of independent claims 1, 10, and 17 are taught or suggested by the cited art, then maintaining this rejection is a violation of due process. If the Office wishes to factually support this rejection, then another office action is required. This other office action must follow the requirements of MPEP § 2143. And, this other office action cannot maintain the rejection — this

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other office action may ONLY properly present the reasons for the rejection and the Assignee must be given another opportunity to rebut the rejection. ANY OTHER ACTION IS A VIOLATION OF DUE PROCESS.

New claim 45:

The Assignee presents a new system claim (claim 45) that includes subject matter of claim 41 that was not objected to or rejected – that is, a processor that receives a request to connect the payer with the help communications address for assistance with the financial transaction and that initiates a communications connection among the payer and the help communications address is not taught or suggested by the cited art. Independent claim 45 is presented below.

[c55] A system for monitoring a commercial transaction, comprising:

a processor for receiving an authorization request to a commercial transaction processing center, the authorization request identifying a communications address of a payer for the commercial transaction, the processing device further determining whether the payer is a subscriber of the commercial transaction monitoring service,

wherein if the payer is a subscriber to the commercial transaction monitoring service, then the processor further:

obtains a notification address corresponding to the identification of the payer;

creates a notification message using the notification address, wherein the notification message comprises a help communications address for assistance with the commercial transaction and wherein the notification message further comprises a merchant name, a merchant address, the amount of the commercial transaction, a date of the commercial transaction, a time of the commercial transaction, a name of the payer, and a reference number of the commercial transaction;

communicates the notification message to the notification address;

receives a request to connect the payer with the help communications address for assistance with the financial transaction; and

initiates a communications connection among the payer and the help communications address.

U. S. Patent Application No. 09/608,184, independent claim 45. Support is found throughout the specification for this claim. See also, currently amended claim 41, for additional support.

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CONCLUSION

The objection and all of the rejections have been overcome. Further, none of the references cited by Examiner Brown, alone or in combination, disclose or suggest the claimed subject matter of amended claims 1, 10, 17, and 41 and new claim 45. Therefore, Assignee respectfully solicits a Notice of Allowance for all pending claims (claims 1, 10, 17, 41, and 45).

AUTHORIZATION FOR PAYMENT OF FEES

If there are any other fees due in connection with the filing of this response, please charge the fees to the credit card on file. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to the credit card on file.

If the Office has any questions, the Office is invited to contact the undersigned at (757) 253-5729 or bambi@wzpatents.com.

Respectfully submitted,



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Date: March 28, 2005